



Michael A. McDougal
 District Attorney
 9th Judicial District

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 OPINION COMMITTEE

301 N. Thompson, Suite 106
 Conroe, Texas 77301-2824

Conroe (936) 539-7800
 Fax (936) 760-6940

RQ-0510-JC

January 22, 2002

FILE # ML-42392-02

I.D. # 42392

Hon. John Cornyn
 Attorney General
 Supreme Court Building
 P.O. Box 12548
 Austin, TX 78711-2548

Attn: Open Government Section, Opinion Committee
 Re: Jurisdiction of Water District Peace Officers

Dear Attorney General Cornyn:

This request asks for an opinion on whether peace officers contracted by a Water District under Tex. Water Code § 49.216 may issue traffic citations for traffic violations committed on public areas encompassed by a drainage district.

Section 49.216(a) of the Water Code provides in pertinent part:

- (a) A district may contract for or employ its own peace officers with power to make arrests when necessary to prevent or abate the commission of:
 - (1) any offense against the rules of the district when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district;
 - (2) any offense involving injury or detriment to any property owned or controlled by the district; and
 - (3) any offense against the laws of the state.

Tex. Water Code Ann. § 49.216(a) (Vernon 2000).

Article 14.03(g) of the Code of Criminal Procedure provides in pertinent part:

A peace officer listed in Subdivision (1), (2), (3), (4), (5), Article 2.12, who is licensed under Chapter 415, Government Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, except that an officer who is outside the officer's jurisdiction may arrest a person for a violation of Subtitle C, Title 7, Transportation Code, only if the officer is listed in Subdivision (4), Article 2.12.

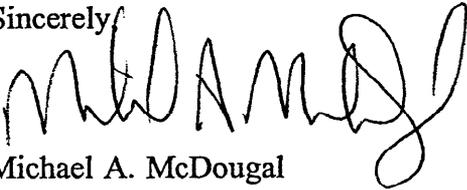
Tex. Code Crim. Proc. Ann. art. 14.03(g) (Vernon Supp. 2002) (emphasis added).

The City of Oak Ridge North has contracted with the Montgomery County Drainage District No. 6 to provide law enforcement services in the District pursuant to section 49.126 of the Water Code. Substantial portions of the Drainage District lie within unincorporated areas in the jurisdiction of the Montgomery County Sheriff's Office.

In the course of executing their contract with the Drainage District, City of Oak Ridge Officers travel the public roads in the District and see traffic offenses. Do the Oak Ridge Officers have jurisdiction, pursuant to their contract under the Water Code, to write citations for traffic offenses committed on the public roads in the District?

Your opinion on this issue will be greatly appreciated. Please call First Assistant District Attorney David Bluestein at (936) 539-7800, or Assistant District Attorney Gail McConnell at (936) 539-7907, if you have questions or need additional information.

Sincerely,



Michael A. McDougal
District Attorney

cc: Mr. Andy Walters
Chief of Police
City of Oak Ridge